

5/11/2004
(6:00 PM)

AMENDMENT # 1

OFFERED IN THE SENATE
TO: SCS CSHB 309(RES)

BY SEN. SEEKINS

1 Page 1, line 1, following "**nonindigenous fish**":

2 Insert "**and consecutive sentencing; and providing for an effective date**"

3

4 Page 1, line 5, following "that":

5 Insert "section 4 of"

6

7 Page 1, following line 8:

8 Insert new bill sections to read:

9 **** Sec. 2.** AS 12.55.025(c) is amended to read:

10 (c) Except as provided in (d) [AND (e)] of this section, when a defendant is
11 sentenced to imprisonment, the term of confinement commences on the date of
12 imposition of sentence unless the court specifically provides that the defendant must
13 report to serve the sentence on another date. If the court provides another date to begin
14 the term of confinement, the court shall provide the defendant with written notice of the
15 date, time, and location of the correctional facility to which the defendant must report. A
16 defendant shall receive credit for time spent in custody pending trial, sentencing, or
17 appeal, if the detention was in connection with the offense for which sentence was
18 imposed. A defendant may not receive credit for more than the actual time spent in
19 custody pending trial, sentencing, or appeal. The time during which a defendant is
20 voluntarily absent from official detention after the defendant has been sentenced may not
21 be credited toward service of the sentence.

22

1 * **Sec. 3.** AS 12.55 is amended by adding a new section to read:

2 **Sec. 12.55.127. Consecutive and concurrent terms of imprisonment.** (a) If a
3 defendant is required to serve a term of imprisonment under a separate judgment, a term
4 of imprisonment imposed in a later judgment, amended judgment, or probation
5 revocation shall be consecutive.

6 (b) Except as provided in (c) of this section, if a defendant is being sentenced for
7 two or more crimes in a single judgment, terms of imprisonment may be concurrent or
8 partially concurrent.

9 (c) If the defendant is being sentenced for

10 (1) escape, the term of imprisonment shall be consecutive to the term for
11 the underlying crime;

12 (2) two or more crimes under AS 11.41, a consecutive term of
13 imprisonment shall be imposed for at least

14 (A) the mandatory minimum term under AS 12.55.125(a) for each
15 additional crime that is murder in the first degree;

16 (B) the mandatory minimum term for each additional crime that is
17 an unclassified felony governed by AS 12.55.125(b);

18 (C) the presumptive term specified in AS 12.55.125(c) or the
19 active term of imprisonment, whichever is less, for each additional crime that is

20 (i) manslaughter; or

21 (ii) kidnapping that is a class A felony;

22 (D) two years or the active term of imprisonment, whichever is
23 less, for each additional crime that is criminally negligent homicide;

24 (E) one-fourth of the presumptive term under AS 12.55.125(c) or
25 (i) for each additional crime that is sexual assault in the first degree under
26 AS 11.41.410 or sexual abuse of a minor in the first degree under AS 11.41.434,
27 or an attempt, solicitation or conspiracy to commit those offenses; and

28 (F) some additional term of imprisonment for each additional
29 crime, or each additional attempt or solicitation to commit the offense, under
30 AS 11.41.200 - 11.41.250, 11.41.420 - 11.41.432, 11.41.436 - 11.41.458, or
31 11.41.500 - 11.41.520.

1 (d) In this section,

2 (1) "active term of imprisonment" means the total term of imprisonment
3 imposed for a crime, minus suspended imprisonment;

4 (2) "additional crime" means a crime that is not the primary crime;

5 (3) "primary crime" means the crime

6 (A) for which the sentencing court imposes the longest active term
7 of imprisonment; or

8 (B) that is designated by the sentencing court as the primary crime
9 when no single crime has the longest active term of imprisonment."

10 Renumber remaining bill sections accordingly.

11
12 Page 2, following line 23:

13 Insert new bill sections to read:

14 **** Sec. 5.** AS 33.16.090(b) is amended to read:

15 (b) Except as provided in (e) of this section, a prisoner is not eligible for
16 discretionary parole during the term of a presumptive sentence; however, a prisoner is
17 eligible for discretionary parole during a term of sentence enhancement imposed under
18 AS 12.55.155(a) or during the term of a consecutive or partially consecutive presumptive
19 sentence imposed under AS 12.55.127 [AS 12.55.025(e) OR (g)]. A prisoner sentenced to
20 a mandatory 99-year term under AS 12.55.125(a) or a definite term under
21 AS 12.55.125(l) is not eligible for discretionary parole during the entire term.

22
23 *** Sec. 6.** AS 33.16.090(c) is amended to read:

24 (c) Except as provided in (e) of this section, a prisoner eligible for discretionary
25 parole during a period of sentence enhancement imposed under AS 12.55.155(a) or
26 during a consecutive or partially consecutive presumptive sentence imposed under
27 AS 12.55.127 [AS 12.55.025(e) OR (g)] shall serve the unenhanced portion of the
28 sentence or the initial presumptive sentence before being otherwise eligible for
29 discretionary parole under AS 33.16.100(c) or (d). For purposes of this subsection, the
30 sentence for the most serious offense in the case of consecutive or partially consecutive
31 presumptive sentences shall be considered the initial presumptive sentence. The

1 unenhanced sentence or the initial presumptive sentence is considered served for
2 purposes of discretionary parole on the date the unenhanced or initial presumptive
3 sentence is due to expire less good time earned under AS 33.20.010.
4

5 * **Sec. 7.** AS 12.55.025(e), 12.55.025(g), and 12.55.025(h) are repealed.
6

7 ***Sec. 8.** APPLICABILITY. Sections 2, 3, and 5-7 of this Act apply to offenses occurring on
8 or after the effective date of those section of this Act.
9

10 ***Sec. 9.** Sections 2, 3, 5-9 of this Act take effect July 1, 2004.”
11